

The Third Man Hypothesis

In his summing up, the coroner of the first inquest, Denis Barritt, said he found some of the evidence before him inconsistent with the dingo account. He referred to the minimal damage to the jumpsuit, the lack of blood or tissue inside the jumpsuit, and the absence of dingo saliva. This presented the coroner with a dilemma which he honestly faced in his concluding remarks: either Azaria met her death by another cause than a dingo attack or else the dingo's possession of the child ended abruptly before it had time to set about devouring the child'. The coroner accepted the latter alternative; the Crown was later to argue for the former.

The eyewitness testimony supported the Chamberlains' innocence, but there was information that seemed both to support the dingo hypothesis and to conflict with it. The state of the clothing when found and the nature of the damage to the jumpsuit, Barritt thought, indicated human involvement. Barritt solved this problem by introducing a third man' who intercepted the dingo in its gruesome task. This person or persons unknown buried the clothing 'in the plain or dune country, subsequently dug [it] up, rubbed [it] on undergrowth near the base of the rock and placed [it] ... at the spot where it was later found'. The child was dead when the 'third man' retrieved Azaria's body from the dingo's grasp. Barritt speculated that the scissor damage to the garment may have occurred when the unknown person freed the body from the jumpsuit. 'On probabilities', Barritt found, 'at Ayers Rock a scissors would be a tool used by a white person rather than an Aborigine'.

Barritt accounted for 'the lack of damage to the clothing', 'the absence of dingo saliva, plus any large numbers of hair' by supposing that the dingo's possession of its prey was suddenly interrupted by some human. The nature of the damage to the jumpsuit and the state of the clothing—singlet found inside the jumpsuit [a conclusion for which there was no evidence before the coroner, indeed Constable Morris denied it], jumpsuit partly on top of the nappy, bootees within the legs of the jumpsuit, all the clothing within an area of 18 inches, no disturbance of the surrounding vegetation—were explained by suggesting that someone intervened and deliberately placed the articles of clothing by a dingo's den in order for them to be found. The motive was the inclination of many at Ayers Rock to protect dingoes' which led to someone 'thus concealing the offending dingo's identity'. This was a neat though unsatisfactory solution to the dilemma for it left the case open with an unresolved mystery, which the *Daily Telegraph* (21.2.81) articulated with the headlined query: 'Then Who Did Bury Azaria?' Within days of the coroner's finding, Detective Charlwood was sent with a special squad to Ayers Rock with strict instructions to solve the mystery.

At the trial, the prosecution used all the evidence that Barritt thought indicated human involvement to implicate the Chamberlains in a murder. The defence did not rely on the theory of human intervention to counter this tactic, but simply related all the data to the capabilities of a dingo. Nevertheless, the 'third man' scenario was appraised during the Chamberlains' Federal Court appeal. 'The great difficulty about the hypothesis 'of a third party', according to Justice Jenkinson, 'is to imagine a credible psychological explanation of the unknown person's actions. Why should he have damaged the clothing at all? ... I think that the jury might reasonably have been persuaded beyond reasonable doubt to reject—as I would myself reject—an hypothesis of an unknown person, who caused that damage but thereafter gave no indication that he had done

so, as not within the realm of the reasonably possible’.

During the Federal Court appeal, the defence attempted to tender an affidavit from Derek Roff, chief ranger at Ayers Rock, which he had sworn on 20 December 1982, but it was ruled that it ‘lacked cogency in the relevant sense’. Roff swore that the vegetation ‘was flattened and depressed’ where the clothing was found, which ‘was consistent in his experience to an area where a dog or dingo had laid’. Although the Federal Court judges did not consider that this would have had any substantial influence on the jury, it refuted one of Barritt’s reasons for postulating human interference. The other reasons were also to come under challenge.

The ‘reasonably possible’, like beauty, is in the eye of the beholder, for Justice Deane in his High Court judgment accepted what Justice Jenkinson of the Federal Court had rejected. Justice Deane found himself ‘unable to share’ Justice Jenkinson’s conclusion ‘that no hypothesis of an unexplained intervention by any person other than the Chamberlains was within the realm of the reasonably possible’. However, Chief Justice Gibbs and Justice Mason agreed with Justice Jenkinson that ‘the only persons known to have any possible motive to interfere with the clothing were Mr and Mrs Chamberlain’. Of course, that assumed the Chamberlains were trying to conceal a homicide, which was the point to be proved.

The ‘third man’ hypothesis experienced a dramatic revival within the orbit of the Chamberlain support groups. The support groups in each State were ever alert for anything that favoured their cause. Any reported dog attack from anywhere in the world was collected as proof of Lindy’s innocence. The compilation of these attacks attained such proportions that Porter commented in the inquiry that it was sufficient to tangible, sensational and forceful to keep up their momentum and enthusiasm. Tipple’s gathering of more forensic data seemed lacklustre and unpromising, for the Crown had won that battle at the trial. The first wave of public rallies broke into the second wave of a daring new legal re-interpretation. This sensational and deceptively plausible position was the brainchild of Phil Ward, an Adventist entrepreneur who presided over a mini-publishing empire, and Don McNichol, a law student and former police cadet.

On the basis of interviews that he and those retained by him had made in the Northern Territory, Ward announced in mid-1983 that he knew what had happened to Azaria. Ward accepted the defence’s account that Lindy saw a dingo emerging from the tent. He did not question that this dingo seized Azaria from her basket and fled with her into the night. However, he argued that after leaving the tent, the dingo had absconded not to Ayers Rock with its human prey, but to a ranger’s home. The reason for this happening, he believed, was because the dingo involved was a semi-domesticated pet known as ‘Ding’ or ‘Scarface’. In Ward’s imaginative account, the ranger’s wife panicked when she discovered that the family’s pet dingo had deposited a baby’s body in the yard, so she buried the body and awaited her husband’s return. By the time he got home two of the woman’s female friends had supposedly become involved. The husband, according to Ward’s theory, decided to support his wife and help to cover up what had happened. He disinterred the body, removed the clothing, and later deposited them over by the Rock so that they would be found near a dingo’s den.

Ward’s claim that the semi-pet dingo had gone to the ranger’s house relied on his understanding of a blacktracker’s testimony. The blacktracker, Nipper Winmarti, had given

evidence at the first inquest, but not in any of the later hearings. Arthur Hawken, an Adventist and experienced bushman who had some affinity with the Central Australian Aborigines, had obtained further testimony in personal interviews which he had recorded. There was evidence that 'Ding' had been shot some weeks before the disappearance of Azaria, but Ward dismissed it as part of the conspiracy. Ultimately, Ward expanded the plot to include seven or as many as 11 Ayers Rock residents. Ward asserted that he had affidavits from several witnesses to prove that 'Ding' was shot after Azaria's death and not before as the rangers claimed.

Ward's incredible theory was not simply based on testimony evidence, as was commonly thought, but was a version of the Crown's forensic case. Instead of trying, like Tipple, to refute the Crown's forensic case, Ward basically accepted it. However, with considerable resourcefulness and flair he directed it not at Lindy, but at a group of rangers and their wives at Ayers Rock. At point after point Ward reflected the Crown's forensic and circumstantial case, which virtually made his account a mirror image of the Crown's.

Professor Cameron's evidence about decapitation, bloodied handprints and bleeding while in an upright position were all accepted by Ward but redirected: Then a person discovered this, picked up the body and created both the handprints and the blood flow that suggests decapitation' 'The handprints were of a small adult. The body was held vertically'. Ward emphasised that the ranger's wife was 'a smallish woman'. As in the Crown's case against Lindy, the ranger's wife supposedly got blood on her slacks when she lifted the body. Cameron's opinion that the baby was temporarily buried in its clothes and later exhumed was also incorporated into Ward's circumstantial case: 'The existing forensic evidence says that the baby's body was buried for at least three days (the time is incorrect) in alkaline soil. [The ranger's] backyard is alkaline—whereas most of the soil around Ayers Rock is acidic'. Thus Ward was convinced that the testimony of 'the English forensic expert (Cameron) brought out for the case was right'.

Just as Michael, according to the Crown, docilely cooperated in the cover-up of his wife's crime, so in Ward's reconstruction the rangers placidly agreed to assist their wives in their deception: 'At least three days later park officials exhumed the body'. Next, still following the Crown's forensic case, the rangers 'removed her clothing' and 'jabbed at the clothing with scissors to make it look like a dingo's teeth marks'. In Ward's Crown-like version, the rangers then 'placed Azaria's clothing near Ayers Rock to make it look as if a dingo had eaten the body'. Finally, Ward suggested 'they disposed of the body at an unknown location'.

Five-and-a-half years after the tragedy, when the matinee jacket was discovered, Ward argued that one of the seven was responsible for placing it where it was found. It was dropped there, Ward surmised, when it was learned that the police intended to search the area following the discovery of the body of a tourist who had fallen from the Rock to his death. Before any forensic report, Ward concluded that someone who knew that a pet dingo was the culprit for Azaria's death and not the Chamberlains arranged the discovery of the matinee jacket to relieve a troubled conscience.

Ward argued that whereas the Crown case lacked a motive, his scenario supplied one. However, the Crown only lacked a motive for the crime, not its cover-up. The Crown argued that

Lindy and Michael damaged and disposed of the clothing in such a way as to implicate a dingo and thus conceal a murder. Similarly, Ward contended that the rangers attempted to put the blame onto a wild dingo at the Rock to clear themselves of negligence for having failed to destroy a domesticated dingo that was known to be dangerous. Thus Ward's thesis was quite unoriginal in content and concept, but entirely unique in its speculative application to specific persons.

The only piece of the Crown's forensic evidence that Ward's ingenuity could not relate to a third party was the claim that infant blood was present in the Chamberlains' car. As he told *People* magazine: 'All the forensic evidence, except for the blood in the car, fits what we have found'. To explain this flaw in his thesis, Ward resorted to charging the police with having planted placental blood in the car. He based this on the fact that Kuhl's results indicated a concentration of foetal haemoglobin in her samples from the car which was compatible with cord blood but not Azaria's. This clearly demonstrated, Ward felt, that the police had planted cord blood in the car.

When Ward learned of Smith's work on the under-dash spray, he cleverly applied the information to his claim of malpractice. When Kuhl first tested under the dash of the Chamberlains' car, Ward noted, she found no blood, but when she analysed the samples sent to her from Dr Tony Jones she obtained a positive reaction to foetal haemoglobin. Ward explained this anomaly by charging the police with having placed a spot of cord blood on the bitumen spray whilst the car was in their possession. Ward defended Kuhl's work in the *Northern Territory News* (November 1984) with an argument that was to be repeated by the Crown at the inquiry. 'Mrs Kuhl', Ward argued, 'never says the spray pattern under the Chamberlain's dashboard was blood. She simply said a spot from "off the spray" was blood'.

Ward's singular investigative style succeeded in irritating the Northern Territory police and authorities. He and his fellow amateur sleuths were harassed by the Territory's police, threatened by anonymous callers, and treated as pariahs by all and sundry. Ward's agitations forced the Northern Territory police to investigate his charges and consequently they interviewed the blacktrackers thoroughly for the first time. Their investigations confirmed that the Aborigines' tracking evidence supported the Chamberlains' dingo account. However, the police continued to ignore the tracking evidence and dismissed Ward's charges as mere innuendo.

But down south his mid-1983 revelations received considerable media coverage and the support groups generally saw Ward and his troupe as conquering heroes. Had they not solved the case, named the guilty dingo, verified Lindy's story, forced the Northern Territory to reopen police inquiries, and spent months of their time and thousands of their dollars in the name of justice?

One who was not impressed with Ward's legal breakthrough was the Chamberlains' lawyer, Stuart Tipple. He was engaged at the time in preparing for the Federal Court appeal, but he did not share Ward's enthusiasm that the case against the seven persons was cogent or that the material even qualified as new evidence. The senior appeal counsel agreed with Tipple's assessment as did Kirkham, the defence barrister at the trial.

The reason Ward failed to convince Tipple of his material's cogency was not because Tipple was adverse to the idea of human intervention; indeed, he thought such an event was quite feasible. However, the legal mind requires one thing before it will move from a general proposition to a particular one—evidence. Tipple found the concept of human intervention plausible, but he considered Ward's specifying of the culprits by mere innuendo to be dangerous and unjust. Ward, of course, was bewildered and angered when Tipple declined to use his material and accompanying interpretation in the appeal. Following this cool reception of his investigations, Ward tended to blame Tipple for every frustration that he and those who supported him experienced. Exasperated by Tipple's lack of enthusiasm, Ward turned to other legal advisers.

Solicitor Trevor Nyman and J. Lloyd-Jones QC accepted the task of verifying and preparing Ward's material. They sent their own investigator out to Central Australia to repeat the questioning. The eyewitnesses were flown to Sydney and interviewed again. They sifted and collated the large amount of testimony that Ward had collected on tape and began the process of preparing the testimony in affidavit form. Nyman and Lloyd-Jones also made contact with the support groups.

Ward promoted his views through his own newsletter, *Adventist News*, which the Northern Territory seemed to think was an official organ of the Adventist Church. In fact, the Church's central administration strongly opposed Ward's newsletter. The Church's official publications had as a matter of policy decided not to address the subject of the Chamberlain case. No letters on the topic or advertisements by the support groups were accepted for publication by the editors under strict instructions from the Church's headquarters in Sydney. Ward met an informational need and his journal's readership grew to some 3000 subscribers. The newsletter became a major source of information about the case and provided a vehicle for promulgating Ward's views.

Ward had spent some \$60,000 of his own money assembling his data. With his new legal team costing \$9000 a week, Ward's expenses escalated to the point where he began to feel the financial strain. As his initial optimistic predictions of Lindy's early release blurred into months the costs became staggering. Through his newsletter he called for \$110,000 to finance a private prosecution against the seven Ayers Rock residents. In September 1983, he turned to the Adventist churches for help in raising such a sum. Melbourne churches pledged \$20,000; Perth, \$6000. In the same month a directive went out to church leaders informing them that the central administration had 'wisely cautioned against our [Seventh-day Adventist] churches becoming crusading centres for private fund raising campaigns for private prosecution'. Pastor Keith Parmenter, then head of the Church, wrote Ward, 'You have collected considerable money from our churches for your work on the Chamberlain case. We are really concerned about this ... there is the danger of any "conman" stepping in to exploit this interest'.

Lindy was kept well informed of Tipple's progress with the forensic evidence. Her knowledge of this led her to write a letter from Berrimah Prison on 16 October 1983 to the Chief Minister, Paul Everingham, which blew a bleak wind over the heat of the growing passion for Ward's outlandish thesis. Lindy wrote the Chief Minister, 'I have asked both gentlemen [Ward and his aid, Don McNichol] in separate instances to desist from their activities, and also contacted their lawyer for the same reason. I wish you and your Government to know that I will

have no part in their actions, and that they are not supported by myself, husband or family. I have seen enough first hand of what malicious gossip and fabricated hypothesis has done to me, and do not wish to see another similar situation which I fear maybe the case’.

Lindy astutely recognised in Ward’s hypothesis the same elements that the Crown had used against her and wisely rejected such a course as neither just to others nor helpful to herself. However, Ward believed Lindy’s negative response to his grandiose scheme was due to the ignorant advice of her solicitor. He announced in February 1984, immediately after the High Court’s judgment against the appeals, that in 10 days he would be laying private charges ‘against people who disposed of Azaria Chamberlain’s body’. He confidently allowed six to eight weeks before the Chamberlains would be cleared by this action. In March the charges were still a month away, since, he said ‘we wouldn’t want any haste to jeopardise the case by a technicality’. By April the original 10 days had grown to six weeks before the lawyers were ready to lay charges. The legal fees in the same month increased to \$12,500 per week. Once again the support groups were appealed to for more funds; a Brisbane rally pitched in \$11,000.

On 24 May 1984, when it became clear that the lawyers were not in favour of his private action against the seven persons at Ayers Rock, Ward withdrew from his leadership role and handed the reins over to Jim and Cay Driscoll. The Driscolls are Adventist business people who were leading figures in the Murwillumbah support group. Their receipt of the controls meant that they inherited all Ward’s material, his legal team and the responsibility for satisfying the voracious legal appetite for funds.

The Driscolls set up a trust deed to form what they called ‘The Chamberlain Fighting Fund’. It was administered by Eddie Long, Bronte Douglass, Cay Driscoll and Lyn Knight, all Adventist business people. The legal adviser to the fund’s trustees was an Adventist solicitor, John Bagnall. The main purpose of this fund was to finance the costs of the Nyman team. To do this they ran concerts, rallies and drives. The Adventist community was their main—though not exclusive—source of funds. A single rally at the Cooranbong church in December 1984 raised \$17,000; two weeks later a similar function in the Wahroonga church gathered in \$24,000. A large sum, reportedly \$80,000, was collected in USA. All told the fund was to direct a further \$125,000 to the costs of the Nyman team. The total cost for the material that this legal team assembled reached a staggering \$250,000, quite apart from other expenses.

Because Ward had withdrawn from the leadership of the group that was pressing the conspiracy hypothesis, did not mean that he was inactive. The support groups lived on hope. Constant promises in Ward’s *Adventist News* kept alive the groups’ visionary dream of an imminent breakthrough or of the disclosure of new data that would exonerate Lindy. The *Adventist News*, in its typical rhetoric, assured the faithful that when Ward’s evidence was made public ‘it could be the biggest bombshell so far in the four years of the Azaria saga’. With evangelistic certainty, readers were told that ‘even if Lindy claimed she did [murder Azaria], she would be wrong. I [Ward] know beyond all reasonable doubt what happened to Azaria’.

Some parts of the media were also impressed with Ward’s confident accusations. The early edition of the *Daily Mirror* on 20 July 1983 even ran the headline, ‘This Dingo Took Azaria’ and supported this proclamation with an accompanying photograph of ‘Ding’, but by the late final

the headline was replaced with a denial: 'My Dingo Didn't Take Azaria: "'Alice" Ranger Tells'. The Sydney *Sun*'s banner was equally dramatic: 'Baby Buried in Backyard'.

Ward's most notable supporter was TV journalist Kevin Hitchcock. Hitchcock spent five months and \$100,000 producing an award-winning documentary which followed up aspects of Ward's material. A month after the High Court's rejection of the appeal, Hitchcock's documentary went to air as a one-hour feature, 'Azaria—A Question of Evidence'. In this form the bombshell had less than the force of an atomic explosion, though it did make some impact. In the Northern Territory, considerable debate ensued before TV station NTDS decided to screen Hitchcock's controversial documentary. In August 1984 Ward published his dramatic revelations of the truth in a book, *What the Jury Were Not Told*. As late as May 1985 the *Weekend Truth* ran a three-part series of reporter James Simmonds's version of Ward's theory. Most of the support groups devoured the whole proposal as a godsend.

Ward blamed the Chamberlains' solicitor, Stuart Tipple, and the Adventist Church, since it supported Tipple financially, for the failure of his exposures to force a Royal Commission. His ruthless attacks on Tipple's competence and integrity were accepted as valid by many of the support groups. Generally, the Adventist community was bewildered and frustrated at the continued, and as they saw it, wrongful imprisonment of Lindy. Ward gave them a human object upon whom to vent their anger, for it is blasphemous to curse God. The vilification of Tipple by some of his fellow Adventists, who, for various reasons, were sometimes encouraged in this by politicians and lawyers, is another item on the list of unfortunate deeds in this case.

The heir of Ward's material, Jim Driscoll, realised that along with it and the legal advisers, he had received a legacy of strained relationships. One of the members of the new trust fund, Lyn Knight, endeavoured to get the two legal teams to function together. Tipple did confer again with the Nyman legal team in June 1984, and visited Lindy with them in Darwin during the same month. Lindy set out the ground rules for Nyman: there were to be 'no "smear tactic" campaigns against any person or body (public or private) whether based on fact or fiction. No underhand or dishonest methods are condoned by me in the procuring of evidence or any other way involved in my case by legal teams or those engaged by them when working on my behalf'.

In April 1984 Michael encouraged the West Australian group that it was his 'opinion that this team [of Nyman] should be given the utmost assistance in any new legal move'. He especially credited McNichol and Ward with 'spearheading' much of the new evidence. However, in June he cautioned one supporter that 'confidence in the Ward-McNichol evidence may be somewhat dissipated by the time it is all assessed by competent legal persons'. There was more truth in his advice than Michael himself entertained.

Later in September, Tipple, together with Nyman and Lloyd-Jones, met with Lindy in Darwin. The purpose of the September visit, Ward told his readers, was 'that she [Lindy] engage the support group's legal team as her joint representatives—along with her existing team'. Driscoll wrote to a fellow trustee of the fund that 'should Lindy not agree to accept our team and their strategy, then we will move on regardless and expose the weakness of the existing defence to our Groups, our Church Leaders and the Press'. Lindy did retain Nyman as a solicitor to cooperate with Tipple, but she saw no point at this time in incurring the expense of a Queen's

Counsel.

At this time Lloyd-Jones made available a summary opinion which he had prepared at Lindy's request as a preliminary document. The short statement of 88 pages was an emasculated version of Ward's original daring assertions. It was also an extremely expensive legal opinion. Lindy was given access to this summary opinion and a comparison of it with the trial transcripts that Tipple had compiled. The media and the principals of the 'Fighting Fund' reported that there was a 1700-page opinion as the basis of Lloyd-Jones's summary, but neither Lindy, Tipple, Driscoll nor anyone else ever saw it. No 1700-page document was submitted to the Morling Inquiry. Michael wrote Driscoll and requested access to the 1700-page report, but to no avail. Ward dramatically announced the imminent release of the full opinion as an event 'expected to explode onto the nation's front pages about Tuesday [25.9.84] next week'. It did not detonate. Four months later, the *Sunday Territorian* (10.2.85) reported Ward as still promising to present an '1800-page report' to the Berrimah inmate that would 'Get 'Freedom' for Lindy'.

Tipple's own assessment of the summary report that Lloyd-Jones produced was that it contained very little that was new or cogent, but was mainly a repetition of evidence given at the trial or corroborative of it. He did find the added evidence of people following tracks westward from the tent 'most helpful'. On receiving the opinion, Tipple addressed a series of questions to Lloyd-Jones which concluded with the pertinent query: 'In the event of another Appeal how do you propose introducing further material that merely emphasises or corroborates evidence given at the trial?' However, it was developments in the forensic area which ultimately made a united approach by the two legal counsel difficult.

At the time Ward was going public with his daring reconstructions in July 1983, Tipple and Professor Boettcher were flying to Germany to discuss with Behringwerke the problems Boettcher had experienced with their antiserum against foetal haemoglobin. They returned with further confirmation concerning the shortcomings in the Crown's blood evidence. A week before Tipple, Nyman and Lloyd-Jones went to see Lindy in Darwin (September 1984), Tipple and Les Smith had studied the jumpsuit at the High Court in Canberra. It was on that occasion that Tipple began to suspect that the 'human intervention' supposition might not be necessary. The best solicitations of Lyn Knight notwithstanding, the growing scientific material that refuted the Crown's case made it difficult for Tipple to cooperate with Lloyd-Jones's approach that ignored the forensic material.

Tipple initially had no objection to working with the Nyman team, but in reality the two approaches could hardly coexist. Ward's position depended on the validity of most of the Crown's forensic case, whereas the work of Smith, Chapman, Boettcher and others increasingly provided Tipple with the ammunition to attack the Crown's forensic case at every point. Tipple could not simultaneously refute the Crown's forensic case and argue Ward's human intervention theory which accepted most of the Crown's forensic evidence.

In practical terms the overthrow of the jury's verdict required the destruction of every part of the Crown's case. The prosecution's case against the Chamberlains was an exclusively forensic one. To accept the Crown's forensic case, but apply it to a specific third party, as Ward did, required two things if it were to be successful: first, the correctness of most of the Crown's

scientific evidence; and second, compelling data that implicated a third party. However, Tipple was convinced that he had material that rebutted the Crown's forensic evidence, and he was also certain that Ward's material, even in the more restrained form of Lloyd-Jones's opinion, did not provide the second prerequisite.

The only evidence, besides circumstantial, in support of the conspiracy theory against the seven Ayers Rock residents was Ward's reinterpretation of the Crown's forensic data. Lloyd-Jones's opinion hardly supported that application of the forensic evidence, yet most supporters thought that the Nyman team was arguing for Ward's conspiracy theory.

Lloyd-Jones's main contention was that the short time available to Lindy while she was away from the barbecue was insufficient for her to have performed all the acts involved in the Crown's murder hypothesis. The jury, of course, may have dismissed as mistaken Sally Lowe's estimate of eight to ten minutes for Lindy's absence from the barbecue. Such problems just did not strike at the heart of the Crown's forensic case. In fact, Dr Douglas Wilson, a Queensland medical officer who assisted Professor Cameron, made a statement to the press asserting that 'Lindy had time to kill Azaria'. Clearly the time restraints were not so far beyond dispute as many well-meaning supporters supposed.

The Crown's forensic evidence could be redirected to a 'third man' (Ward's method) or refuted (Tipple's approach), but it would not disappear just by being ignored. Group leaders mistakenly disparaged Tipple for being 'obsessed with the forensic'. Driscoll optimistically informed rallies that eyewitness testimony was 'non-arguable', but forensic, he proclaimed, was 'one specialist giving his views against another and thus they are arguable areas. This is the type of evidence which convicted Lindy and it will never exonerate her'. Of course, such an outlook was as inimical to Ward's view as it was to Tipple's. Nor was it so simple a matter, for in court eyewitness testimony was very much arguable. Furthermore, Professor Chaikin's expert evidence had had a powerful influence because it had not been sufficiently disputed. Neither the jury nor the High Court judges had Driscoll's low estimate of the forensic evidence.

Supporters eagerly embraced the Nyman approach because forensic evidence was obtuse and seemed to stimulate irresolvable conflict between opposing experts. The feeling was that the forensic battle had been lost in the trial and the appeals, where the Crown had triumphed in each engagement. To pursue the forensic, many supporters believed, would just mean more defeats. The support groups were composed of ordinary people who had a commonsense awareness that something was terribly wrong with Lindy's conviction, but they did not always have an informed grasp of the case. Ward's theory accepted the Crown's forensic evidence while Lloyd-Jones's opinion ignored it, so either way there was no conflict with the Crown's experts, and that was attractive to the general supporter. The 'Dingo' theory seemed to prove that a dingo took Azaria and apparently explained some odd features in the state of the clothing. This was a position readily understandable by ordinary people; but then, there is a simple explanation for most things, and it is often wrong.

Tipple knew that he could not avoid answering the Crown's forensic case if Lindy were to be cleared. His own re-examination of the forensic material and the work of Smith and Chapman were leading him entirely away from any human intervention theory. The third man idea—not

only in Ward's spectacular definite form, but also in Coroner Barritt's generalised legal conjecture—was becoming unnecessary in the light of the new forensic data. The Crown case was not just wrong-headed, it was entirely erroneous. There could be no validity in an hypothesis that redirected the Crown's forensic data to the rangers and their wives if the data itself were wrong.

At the end of 1984 Ward took a bold step in his campaign to publicise his position on the Azaria case. When Paul Everingham, the Chief Minister and Attorney-General who re-opened the Chamberlain case, decided to resign and contest the 1984 Federal election for the Territory's single House of Representative's seat, Ward, with characteristic impudence, ran against him. He made the Chamberlain case a central issue in his extensive and scurrilous electoral advertising campaign. His advertisements in the *Northern Territory News* accused the police of planting cord blood in the Chamberlains' car and urged Territorians to read his book—*What the Jury Were Not Told*—to obtain information on the rigging of the case. To give every Darwin resident the opportunity to peruse his exposure of the alleged cover-up and official corruption in the Chamberlain case, Ward distributed 10,000 free copies of his book—one to every second house.

Then in a letter written from Berrimah Prison on 18 March 1985, Lindy ended the saga by dismissing Nyman and Lloyd-Jones as in any way representing her interests. Her reasons were tersely stated: 'In view of your continual vagueness and uncooperative attitude I find I no longer require your services in any way'. She told the support groups that she was 'not prepared to condone the spending of hard-earned money on what, in [her] opinion, was not being produced'. Certainly, despite frequent requests, little was being produced either to Lindy or to her solicitor.

Even the patient and committed Driscoll had become distressed at the time involved and the ever-increasing costs. When he first took over the responsibility for the brief in mid-1984, Driscoll wrote Nyman expressing concern 'at the length of time this has taken and we would wish to have his [Lloyd-Jones] written opinion prior to him going on holidays in July [1984]'. By March 1985 his plea had become strident: 'I want to state my own disappointment at the lime which Senior Counsel has taken in finalising their work'. The lady in Berrimah was not as ill-informed as many imagined.

Those support groups who had committed themselves wholeheartedly to this team's approach were devastated when Lindy dismissed Nyman. Ward encouraged them to see God's hand in it, for in his opinion, Lindy's unqualified termination of the services of Nyman and Lloyd-Jones had kept their material from Tipple. Driscoll, the coordinator of the 'Fighting Fund', wrote to group leaders that it 'would be "sheer madness and totally irresponsible" to think of separating the entire weight of evidence from the experienced and competent legal minds who have compiled it'. He accordingly instructed his lawyers that the information remain in their custody in its entirety.

Some of the support groups voted no money, no action and no material for the Chamberlains so long as Tipple was Lindy's lawyer. They tried to pressure the Adventist Church's leaders to take the same stand. In fact, Nyman needed Tipple's forensic material, and asked for it, more than Tipple required Nyman's affidavits. As Lindy's designated solicitor, all evidence in his client's interest should have been forwarded to him as a matter of course. The loss of the

commitment of some of the support groups was a considerable blow to the public agitation.

The support groups understandably considered their own highly qualified and experienced legal team a safer prospect than the youthful Adventist solicitor from Gosford. That they were wrong is just one of many similar surprises in this case. Nyman had written warmly of Tipple to Lindy: ‘such a step [as engaging further counsel] does not entail losing the services of Stuart Tipple (indeed it is my view that you would be most unwise ever to consider losing his committed and most competent advice along with his close association with the case from the beginning)’. Six months later in January 1985 his advice to the trustees of the ‘Fighting Fund’ was not quite so glowing: ‘if he is incompetent, there is judicial authority—and natural justice requires—that where an inadequate job is done at trial by defence solicitors a merciful government should re-examine the case’.

Throughout the post-trial period Tipple was advised by lawyers of a calibre equally or more impressive than those engaged by the support groups. At no time was Tipple the sole or supreme legal mind directing the defence case. It was unfair to blame him alone for any error, real or imagined, that the defence was supposed to have made. When in June 1985 Tipple made application to the Northern Territory for an inquiry, his submission included 13 statements from eyewitnesses. The application was not solely based on forensic evidence as many support groups believed, but it did wisely focus on the forensic testimony as the essence of the Crown’s case.

During the November 1984 Federal election, candidate Phil Ward boasted in the *Northern Territory News* that it was ‘amazing that I haven’t been sued for what I have said in my book and my column. It shows that it’s true, every last word of it. It’s the best proof you have that something is terribly wrong—and that you need to vote for Ward’. Six months later his wish was granted. On 23 May 1985 during a television interview on the early morning current affairs programme, *Good Morning Australia*, Gordon Elliott, the host, informed Ward that a legal officer was offstage ready to serve libel writs on him. Ward responded gleefully that this was the best news yet for the Chamberlain case as he would now be able to present his material in court.

The legal team that the support groups had said should not be separated from the material they had laboriously compiled, now found that legal rules made it impossible for them to act as Ward’s counsel. The 18 September 1985 issue of *Adventist News* under the heading ‘Last Chance to Free Lindy’, called for donations to fund Ward’s libel case, which he claimed could cost up to \$0.5 million. Despite all the work and effort that had supposedly been expended assembling the material, Ward informed his readers that \$100,000 was needed immediately to prepare the case.

By mid-October Ward had raised \$6000. The rhetoric of pray and pledge was beginning to lose its power over those who had given so much and seen so little. Then in February 1986, Ward’s business was taken over and his newsletter suddenly stopped publication. *Adventist News* at the time was being posted to only 900 subscribers. The final issue came out in time to announce Lindy’s release from prison and to make the pertinent but ironic comment that ‘as Christians we should do our best to quell all rumours’.

The episode of Phil Ward casts many of the issues of the Chamberlain saga into stark relief.

Whatever its eccentricities, Ward's position was no more bizarre than the Crown's and it serves to highlight the faults in both. His interpretation demonstrated, even more graphically than the Crown's case, how dangerous it is to rely exclusively on contested forensic opinion and circumstantial evidence. Ward is a painful reminder of how plausibly an imaginative legal or journalistic mind can apply circumstantial evidence to any convenient bystander.

The Ward campaign is a sobering example of the power of the press. The fervour with which Ward and his followers embraced their cause led them into an unconscious blindness. They denounced the media's assassination of the Chamberlains and then employed the same means to judge and convict seven inhabitants of Ayers Rock without a hearing. It was a sensationalised attack every bit as ruthless as the innuendoes against the Chamberlains that the Northern Territory police fed to the media. Unfortunately, Ward's journalistic verdict convinced many others and received wide coverage in the Australian media. Though on a smaller scale than the attack against Lindy, Ward's campaign was nevertheless a witch-hunt.

The Ward episode also emphasises how vital are the judicial principles of 'presumption of innocence' and 'onus of proof'. To clear their names the seven persons that Ward maligned had to prove their innocence and try to refute the charges brought against them. They were in an unenviable position. To clear themselves the rangers had to overthrow most of the Crown's forensic case. What if the ranger's backyard were alkaline, and his wife's hand did match the bloodied print that Professor Cameron's expert eyes alone could see? What if she did indeed have a shovel in her hand that night for one of a thousand innocent reasons? Such evidence by itself is worthless, whether it be applied to a ranger's wife or a minister's.

Strangely, even when the presence of the handprints was refuted, the burying of the clothing rejected, and the cutting of the jumpsuit with scissors denied, followers of the Ward-McNichol hypothesis did not abandon it anymore than the Crown did theirs. In his book, Ward accused a high-ranking Northern Territory official, whom he called 'Bob', of rigging the evidence by planting cord blood in the Chamberlains' car. The Royal Commission's overthrow of the Crown's blood evidence cleared 'Bob' of such a charge. The defence paradoxically exonerated not only Lindy, but also 'Bob', the rangers and their spouses.

The libel writs against Ward were settled out of court when several News Corporation outlets, including his printer, Griffin Press, paid nearly \$0.5 million to the seven plaintiffs. Ironically, if the case had been heard in court, the rangers, as Ken Chapman wryly remarked, would have done well to have called defence witnesses like himself and Smith to prove a dingo damaged the jumpsuit; whilst Ward would have been wise to have sought the assistance of Crown witnesses like Professor Chaikin and Dr Gordon Sanson to argue that a human had cut the jumpsuit with scissors. For unless Ward could have proved the general proposition of human intervention, he could not possibly have sustained his case against specific persons—and that was precisely the obstacle that confronted the Crown at the Morling Inquiry.

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